

By Senator Brodeur

9-00583A-21

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1                                   A bill to be entitled  
2       An act relating to health insurance cost sharing;  
3       creating s. 627.6383, F.S.; defining the term "cost-  
4       sharing requirement"; requiring specified individual  
5       health insurers and their pharmacy benefits managers  
6       to apply payments by or on behalf of insureds toward  
7       the total contributions of the insureds' cost-sharing  
8       requirements; providing applicability; amending s.  
9       627.6385, F.S.; requiring specified individual health  
10      insurers to disclose on their websites and in their  
11      policies their applications of payments by or on  
12      behalf of policyholders toward the policyholders'  
13      total contributions to cost-sharing requirements;  
14      providing applicability; amending ss. 627.64741,  
15      627.6572, and 641.314, F.S.; requiring pharmacy  
16      benefits managers to apply payments by or on behalf of  
17      insureds and subscribers toward the insureds' and  
18      subscribers' total contributions to cost-sharing  
19      requirements; providing applicability; providing  
20      disclosure requirements; creating s. 627.65715, F.S.,  
21      and amending s. 641.31, F.S.; defining the term "cost-  
22      sharing requirement"; requiring specified group health  
23      insurers and health maintenance organizations and  
24      their pharmacy benefits managers to apply payments by  
25      or on behalf of insureds and subscribers toward the  
26      total contributions of the insureds' and subscribers'  
27      cost-sharing requirements, respectively; providing  
28      disclosure requirements; providing applicability;  
29      amending s. 627.6699, F.S.; providing requirements for

9-00583A-21

20211078\_\_

30 small employer carriers; amending s. 409.967, F.S.;

31 conforming a cross-reference; amending s. 641.185,

32 F.S.; conforming a provision to changes made by the

33 act; providing a declaration of important state

34 interest; providing an effective date.

35

36 Be It Enacted by the Legislature of the State of Florida:

37

38 Section 1. Section 627.6383, Florida Statutes, is created

39 to read:

40 627.6383 Cost-sharing requirements.—

41 (1) As used in this section, the term "cost-sharing

42 requirement" means a dollar limit, deductible, copayment,

43 coinsurance, or any other out-of-pocket expense imposed on an

44 insured, including, but not limited to, the annual limitation on

45 cost sharing subject to 42 U.S.C. s. 18022.

46 (2) (a) Each health insurer issuing, delivering, or renewing

47 a policy in this state which provides prescription drug coverage

48 or each pharmacy benefits manager on behalf of such health

49 insurer must apply any amount paid by an insured or by another

50 person on behalf of the insured toward the insured's total

51 contribution to any cost-sharing requirement.

52 (b) The amount paid by or on behalf of the insured which is

53 applied toward the insured's total contribution to any cost-

54 sharing requirement under paragraph (a) includes, but is not

55 limited to, any payment with, or any discount through, financial

56 assistance, a manufacturer copay card, a product voucher, or any

57 other reduction in out-of-pocket expenses made by or on behalf

58 of the insured for a prescription drug.

9-00583A-21

20211078\_\_

59       (3) This section applies to any health insurance policy  
60 issued, delivered, or renewed in this state on or after January  
61 1, 2022.

62       Section 2. Present subsections (2) and (3) of section  
63 627.6385, Florida Statutes, are redesignated as subsections (3)  
64 and (4), respectively, a new subsection (2) is added to that  
65 section, and present subsection (2) of that section is amended,  
66 to read:

67       627.6385 Disclosures to policyholders; calculations of cost  
68 sharing.—

69       (2) Each health insurer issuing, delivering, or renewing a  
70 policy in this state which provides prescription drug coverage,  
71 regardless of whether the prescription drug benefits are  
72 administered or managed by the health insurer or by a pharmacy  
73 benefits manager on behalf of the health insurer, shall disclose  
74 on its website that any amount paid by a policyholder or by  
75 another person on behalf of the policyholder shall be applied  
76 toward the policyholder's total contribution to any cost-sharing  
77 requirement pursuant to s. 627.6383. This subsection applies to  
78 any policy issued, delivered, or renewed in this state on or  
79 after January 1, 2022.

80       (3)~~(2)~~ Each health insurer shall include in every policy  
81 delivered or issued for delivery to any person in the state or  
82 in materials provided as required by s. 627.64725 notice that  
83 the information required by this section is available  
84 electronically and the address of the website where the  
85 information can be accessed. In addition, each health insurer  
86 issuing, delivering, or renewing a policy in this state which  
87 provides prescription drug coverage, regardless of whether the

9-00583A-21

20211078\_\_

88 prescription drug benefits are administered or managed by the  
89 health insurer or by a pharmacy benefits manager on behalf of  
90 the health insurer, shall include in every policy that is  
91 issued, delivered, or renewed to any person in this state on or  
92 after January 1, 2022, the disclosure that any amount paid by a  
93 policyholder or by another person on behalf of the policyholder  
94 shall be applied toward the policyholder's total contribution to  
95 any cost-sharing requirement pursuant to s. 627.6383.

96 Section 3. Paragraph (c) is added to subsection (2) of  
97 section 627.64741, Florida Statutes, to read:

98 627.64741 Pharmacy benefit manager contracts.-

99 (2) A contract between a health insurer and a pharmacy  
100 benefit manager must require that the pharmacy benefit manager:

101 (c)1. Apply any amount paid by an insured or by another  
102 person on behalf of the insured toward the insured's total  
103 contribution to any cost-sharing requirement pursuant to s.  
104 627.6383. This subparagraph applies to any insured whose  
105 insurance policy is issued, delivered, or renewed in this state  
106 on or after January 1, 2022.

107 2. Disclose to every insured whose insurance policy is  
108 issued, delivered, or renewed in this state on or after January  
109 1, 2022, that the pharmacy benefits manager shall apply any  
110 amount paid by the insured or by another person on behalf of the  
111 insured toward the insured's total contribution to any cost-  
112 sharing requirement pursuant to s. 627.6383.

113 Section 4. Section 627.65715, Florida Statutes, is created  
114 to read:

115 627.65715 Cost-sharing requirements.-

116 (1) As used in this section, the term "cost-sharing

9-00583A-21

20211078\_\_

117 requirement” means a dollar limit, deductible, copayment,  
118 coinsurance, or any other out-of-pocket expense imposed on an  
119 insured, including, but not limited to, the annual limitation on  
120 cost sharing subject to 42 U.S.C. s. 18022.

121 (2) (a) Each insurer issuing, delivering, or renewing a  
122 policy in this state which provides prescription drug coverage  
123 or each pharmacy benefits manager on behalf of such insurer must  
124 apply any amount paid by an insured or by another person on  
125 behalf of the insured toward the insured’s total contribution to  
126 any cost-sharing requirement.

127 (b) The amount paid by or on behalf of the insured which is  
128 applied toward the insured’s total contribution to any cost-  
129 sharing requirement under paragraph (a) includes, but is not  
130 limited to, any payment with, or any discount through, financial  
131 assistance, a manufacturer copay card, a product voucher, or any  
132 other reduction in out-of-pocket expenses made by or on behalf  
133 of the insured for a prescription drug.

134 (3) Each insurer issuing, delivering, or renewing a policy  
135 in this state which provides prescription drug coverage,  
136 regardless of whether the prescription drug benefits are  
137 administered or managed by the insurer or by a pharmacy benefits  
138 manager on behalf of the insurer, shall disclose, on its website  
139 and in every policy issued, delivered, or renewed in this state  
140 on or after January 1, 2022, that any amount paid by an insured  
141 or by another person on behalf of the insured shall be applied  
142 toward the insured’s total contribution to any cost-sharing  
143 requirement.

144 (4) This section applies to any group health insurance  
145 policy issued, delivered, or renewed in this state on or after

9-00583A-21

20211078\_\_

146 January 1, 2022.

147 Section 5. Paragraph (c) is added to subsection (2) of  
148 section 627.6572, Florida Statutes, to read:

149 627.6572 Pharmacy benefit manager contracts.—

150 (2) A contract between a health insurer and a pharmacy  
151 benefit manager must require that the pharmacy benefit manager:

152 (c)1. Apply any amount paid by an insured or by another  
153 person on behalf of the insured toward the insured's total  
154 contribution to any cost-sharing requirement pursuant to s.  
155 627.65715. This subparagraph applies to any insured whose  
156 insurance policy is issued, delivered, or renewed in this state  
157 on or after January 1, 2022.

158 2. Disclose to every insured whose insurance policy is  
159 issued, delivered, or renewed in this state on or after January  
160 1, 2022, that the pharmacy benefits manager shall apply any  
161 amount paid by the insured or by another person on behalf of the  
162 insured toward the insured's total contribution to any cost-  
163 sharing requirement pursuant to s. 627.65715.

164 Section 6. Paragraph (e) of subsection (5) of section  
165 627.6699, Florida Statutes, is amended to read:

166 627.6699 Employee Health Care Access Act.—

167 (5) AVAILABILITY OF COVERAGE.—

168 (e) All health benefit plans issued under this section must  
169 comply with the following conditions:

170 1. For employers who have fewer than two employees, a late  
171 enrollee may be excluded from coverage for no longer than 24  
172 months if he or she was not covered by creditable coverage  
173 continually to a date not more than 63 days before the effective  
174 date of his or her new coverage.

9-00583A-21

20211078\_\_

175           2. Any requirement used by a small employer carrier in  
176 determining whether to provide coverage to a small employer  
177 group, including requirements for minimum participation of  
178 eligible employees and minimum employer contributions, must be  
179 applied uniformly among all small employer groups having the  
180 same number of eligible employees applying for coverage or  
181 receiving coverage from the small employer carrier, except that  
182 a small employer carrier that participates in, administers, or  
183 issues health benefits pursuant to s. 381.0406 which do not  
184 include a preexisting condition exclusion may require as a  
185 condition of offering such benefits that the employer has had no  
186 health insurance coverage for its employees for a period of at  
187 least 6 months. A small employer carrier may vary application of  
188 minimum participation requirements and minimum employer  
189 contribution requirements only by the size of the small employer  
190 group.

191           3. In applying minimum participation requirements with  
192 respect to a small employer, a small employer carrier shall not  
193 consider as an eligible employee employees or dependents who  
194 have qualifying existing coverage in an employer-based group  
195 insurance plan or an ERISA qualified self-insurance plan in  
196 determining whether the applicable percentage of participation  
197 is met. However, a small employer carrier may count eligible  
198 employees and dependents who have coverage under another health  
199 plan that is sponsored by that employer.

200           4. A small employer carrier shall not increase any  
201 requirement for minimum employee participation or any  
202 requirement for minimum employer contribution applicable to a  
203 small employer at any time after the small employer has been

9-00583A-21

20211078\_\_

204 accepted for coverage, unless the employer size has changed, in  
205 which case the small employer carrier may apply the requirements  
206 that are applicable to the new group size.

207 5. If a small employer carrier offers coverage to a small  
208 employer, it must offer coverage to all the small employer's  
209 eligible employees and their dependents. A small employer  
210 carrier may not offer coverage limited to certain persons in a  
211 group or to part of a group, except with respect to late  
212 enrollees.

213 6. A small employer carrier may not modify any health  
214 benefit plan issued to a small employer with respect to a small  
215 employer or any eligible employee or dependent through riders,  
216 endorsements, or otherwise to restrict or exclude coverage for  
217 certain diseases or medical conditions otherwise covered by the  
218 health benefit plan.

219 7. An initial enrollment period of at least 30 days must be  
220 provided. An annual 30-day open enrollment period must be  
221 offered to each small employer's eligible employees and their  
222 dependents. A small employer carrier must provide special  
223 enrollment periods as required by s. 627.65615.

224 8. A small employer carrier shall comply with s. 627.65715  
225 with respect to contribution to cost-sharing requirements, as  
226 defined in that section.

227 Section 7. Subsection (48) is added to section 641.31,  
228 Florida Statutes, to read:

229 641.31 Health maintenance contracts.—

230 (48) (a) As used in this subsection, the term "cost-sharing  
231 requirement" means a dollar limit, deductible, copayment,  
232 coinsurance, or any other out-of-pocket expense imposed on a



9-00583A-21

20211078\_\_

233 subscriber, including, but not limited to, the annual limitation  
234 on cost sharing subject to 42 U.S.C. s. 18022.

235 (b)1. Each health maintenance organization issuing,  
236 delivering, or renewing a health maintenance contract or  
237 certificate in this state which provides prescription drug  
238 coverage or each pharmacy benefits manager on behalf of such  
239 health maintenance organization must apply any amount paid by a  
240 subscriber or by another person on behalf of the subscriber  
241 toward the subscriber's total contribution to any cost-sharing  
242 requirement.

243 2. The amount paid by or on behalf of the subscriber which  
244 is applied toward the subscriber's total contribution to any  
245 cost-sharing requirement under subparagraph 1. includes, but is  
246 not limited to, any payment with, or any discount through,  
247 financial assistance, a manufacturer copay card, a product  
248 voucher, or any other reduction in out-of-pocket expenses made  
249 by or on behalf of the subscriber for a prescription drug.

250 (c) Each health maintenance organization issuing,  
251 delivering, or renewing a health maintenance contract or  
252 certificate in this state which provides prescription drug  
253 coverage, regardless of whether the prescription drug benefits  
254 are administered or managed by the health maintenance  
255 organization or by a pharmacy benefits manager on behalf of the  
256 health maintenance organization, shall disclose, on its website  
257 and in every subscriber's health maintenance contract,  
258 certificate, or member handbook issued, delivered, or renewed in  
259 this state on or after January 1, 2022, that any amount paid by  
260 a subscriber or by another person on behalf of the subscriber  
261 shall be applied toward the subscriber's total contribution to

9-00583A-21

20211078\_\_

262 any cost-sharing requirement.

263 (d) This subsection applies to any health maintenance  
264 contract or certificate issued, delivered, or renewed in this  
265 state on or after January 1, 2022.

266 Section 8. Paragraph (c) is added to subsection (2) of  
267 section 641.314, Florida Statutes, to read:

268 641.314 Pharmacy benefit manager contracts.—

269 (2) A contract between a health maintenance organization  
270 and a pharmacy benefit manager must require that the pharmacy  
271 benefit manager:

272 (c)1. Apply any amount paid by a subscriber or by another  
273 person on behalf of the subscriber toward the subscriber's total  
274 contribution to any cost-sharing requirement pursuant to s.  
275 641.31(48). This subparagraph applies to any subscriber whose  
276 health maintenance contract or certificate is issued, delivered,  
277 or renewed in this state on or after January 1, 2022.

278 2. Disclose to every subscriber whose health maintenance  
279 contract or certificate is issued, delivered, or renewed in this  
280 state on or after January 1, 2022, that the pharmacy benefits  
281 manager shall apply any amount paid by the subscriber or by  
282 another person on behalf of the subscriber toward the  
283 subscriber's total contribution to any cost-sharing requirement  
284 pursuant to s. 641.31(48).

285 Section 9. Paragraph (o) of subsection (2) of section  
286 409.967, Florida Statutes, is amended to read:

287 409.967 Managed care plan accountability.—

288 (2) The agency shall establish such contract requirements  
289 as are necessary for the operation of the statewide managed care  
290 program. In addition to any other provisions the agency may deem

9-00583A-21

20211078\_\_

291 necessary, the contract must require:

292 (o) *Transparency.*—Managed care plans shall comply with ss.  
293 627.6385(4) ~~ss. 627.6385(3)~~ and 641.54(7).

294 Section 10. Paragraph (k) of subsection (1) of section  
295 641.185, Florida Statutes, is amended to read:

296 641.185 Health maintenance organization subscriber  
297 protections.—

298 (1) With respect to the provisions of this part and part  
299 III, the principles expressed in the following statements serve  
300 as standards to be followed by the commission, the office, the  
301 department, and the Agency for Health Care Administration in  
302 exercising their powers and duties, in exercising administrative  
303 discretion, in administrative interpretations of the law, in  
304 enforcing its provisions, and in adopting rules:

305 (k) A health maintenance organization subscriber shall be  
306 given a copy of the applicable health maintenance contract,  
307 certificate, or member handbook specifying: all the provisions,  
308 disclosure, and limitations required pursuant to s. 641.31(1),  
309 ~~and (4), and (48);~~ and (48); the covered services, including those  
310 services, medical conditions, and provider types specified in  
311 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and  
312 641.513; and where and in what manner services may be obtained  
313 pursuant to s. 641.31(4).

314 Section 11. The Legislature finds that this act fulfills an  
315 important state interest.

316 Section 12. This act shall take effect July 1, 2021.